

Remarks/Arguments:

Claims 1-10 are pending in the present application, which are unchanged by this Response. Applicant requests reconsideration of the rejections made final in the Office Action dated December 15, 2004, in light of the arguments below. The Office Action again rejects all claims as obvious over Wallentin in view of Rahman and Nakamura. The Applicant asserts again that, at least for the claim aspects relating to transmission power, the prima facie case for obviousness is not made and the combined references fail to make obvious each and every limitation. See M.P.E.P. §§ 2143 and 2143.03. Applicant has consistently asserted that the prima facie case for obviousness has yet to be made, and that the Examiner retains his initial burden under M.P.E.P. § 2142 of going forward with evidence.

Substituting the initials RNC for radio network controller and BS for base station, claim 1 recites in relevant part:

- A) transmitting information limiting the transmission power in said macrodiversity connection branch from the drift RNC to the serving RNC,
- B) transmitting the information controlling the transmission power of said macrodiversity connection branch from the serving RNC to the drift RNC, and
- C) transmitting information controlling the transmission power of said macrodiversity connection branch from the drift RNC to the drift BS.

For brevity, the following remarks refer to the information transmitted in part A) above as a power limit, and that transmitted in parts B) and C) above as a power control.

Figure 2 of the application is relevant to the following discussion, a copy of which is attached hereto as an Appendix for the Examiner's convenience. It is stipulated that Figure 2 remains illustrative of and not limiting to the claims. Five nodes of the radio system are relevant: the serving RNC 201, the drift RNC 202, the serving BS 101, the drift BS 102, and the mobile station MS or terminal 100.

The above-recited portions of claim 1 finds the drift RNC sending a power limit to the serving RNC (arrow 211), the serving RNC sending a power control to the drift RNC (arrow 212), and the drift RNC sending a power control to the drift BS (arrow 213). These are detailed at page 7, lines 8-29 of the application.

In both the first Office Action dated June 19, 2003, and the final Office action dated December 15, 2003, the Examiner contends that combining Wallentin with Rahman yields the claimed invention except for the above three portions of claim 1 relating to transmission power. Rahman is directed to increasing *capacity* in a CDMA network, and neither Office Action contends that Rahman includes teachings relevant to transmission power. The Examiner concedes that Wallentin does not teach or suggest the above transmission power aspects of claim 1, and asserts that Nakamura alone teaches them, citing col. 5, line 13 to col. 6, line 15.

The Examiner summarizes Nakamura as follows:

“Nakamura et al discloses a method for controlling transmission powers during a soft handover in a CDMA mobile communication comprising a combining station in which provide the generated transmission power control information that is based on the received power control interval from either base station to one of the base station during soft handover (see column 5 and lines 13-column 6 and lines 15).”

The power control interval of Nakamura clearly is not analogous to either a power limit or a power control of claim 1, and the direction of information flow is further dissimilar to either of the claimed transmissions. As the remaining teachings are asserted to concern power control information, the asserted rejection fails to account for transmitting power limit [arrow 211 of Applicant’s Figure 2, part A) of claim 1 above].

Nakamura describes a four-node system (Figure 2 of Nakamura): one MS in contact with two BSs, each BS under one combining station CS. Nowhere is Nakamura seen to fairly teach or suggest sending any power information between nodes at the “same level” in the system (e.g.,

BS to BS), as the claim 1 transmissions between RNCs do (arrows 211 and 212 of Applicant's Figure 2). Nakamura teaches at col. 5, lines 14-30 that power control is carried out between the MS and BS; that during soft handover the MS combines signals from various BSs; and that the CS combines signals in the other direction. This in itself is well known, but this does not directly concern the parts A, B and C of claim 1.

The asserted combination of Wallentin with Rahman may yield a five-node system but carries no relevant teaching as to power management. Managing power consistent with Nakamura in that five node system fails to teach sending power *limit* information as in claim 1, part A); and further fails to teach broadly sending any power information between nodes at the same level. The asserted combination therefore fails to make obvious at least two separate aspects of claim 1.

The Examiner asserts that the combination of the three references teach the following:

It would have been obvious to one ordinary skill in the art at the time the invention was made to combine the teaching of Nakamura with Wallentin's method such that base stations' status of power output are combined/exchanged through radio network controllers and the receiving qualities of the respective radio channels become equal to a determined reference quality (see column 5 and lines 13-18).

Assuming *arguendo* that the asserted combination properly teaches the above, the claims yet remain novel. Claim 1 recites transmitting a power limit from a drift RNC to a serving RNC, a power control from the serving RNC to the drift RNC, and a power control from the drift RNC to a drift BS. These specific transmissions are not obvious from the above non-specific combining and exchanging of power status between non-descript RNCs and BSs. Even if the above paragraph were in the prior art explicitly, claim 1 would be obvious only if one of ordinary skill could resolve the specifically claimed transmissions from it. The Office Action provides no basis by which the claims (e.g., transmissions represented by arrows 211 and 212) follow from the above paragraph. The cited references, combined in any manner yet advanced, fail to lead a skilled artisan to the point where each of those claimed specific

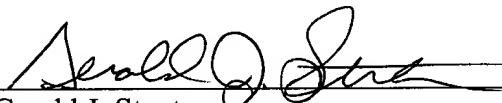
Appl. No. 09/622,240
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transmissions are obvious. Most glaringly, no reference is seen to provide teaching or motivation to send a power limit, regardless of node or direction.

Each of the remaining independent claims include language similar at least to part A) of claim 1 above, and are non-obvious for at least the reasons above: the asserted combination does not teach or suggest all claim limitations, and the specific power control and/or power limit transmissions that are explicitly recited in the claims are not obvious even in light of the combination and teachings asserted by the Examiner.

Applicant respectfully requests the Examiner withdraw the final rejection and allow each of claims 1-10. Applicant's undersigned representative welcomes the opportunity to resolve any issues that may remain via teleconference, at the Examiner's discretion.

Respectfully submitted:


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March 10, 2004
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